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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,992	01/25/2001	William D. Sprick	CG-855	5424

7590

08/20/2002

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EXAMINER

WILLATT, STEPHANIE L

ART UNIT

PAPER NUMBER

3754

9

DATE MAILED: 08/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/769,992

Applicant(s)

SPRICK ET AL.

Examiner

Stephanie L. Willatt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7 and 9-12 is/are rejected.
- 7) ☒ Claim(s) 5,8 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The amendment filed 14 June 2002 stated that a new sheet of drawings was included. However, this sheet was never received and entered. Therefore, the drawings are still objected to until the drawing corrections are received.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7, and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by CarnaudMetalbox.

CarnaudMetalbox discloses a dispenser closure 10 comprising a container finish 21 and a cap body. The container finish 21 has at least one thread 20 and two lug stops 82 formed thereon (Figure 2 and column 4, lines 33-37). The cap body is threadably attached to the container finish 21, as explained in column 2, lines 20-37. The cap body has a top wall 16 with an opening 26 therein. The top wall 16 includes an inner wall 12 and an outer wall 10 depending therefrom. The outer wall 10 and inner wall 12 are concentrically aligned. The inner wall 12 has at least one lug 85 projecting

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from its terminating edge, as discussed in column 4, lines 37-40. The outer wall 14 includes two child-resistant locks 70. The container finish 21 contains two child-resistant stops 64 (column 4, lines 40-44). A fitment 34 is disposed in an opening in the container finish 21 (Figure 3). The fitment 34 sealably engages with cap body (column 2, lines 46-52).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over CarnaudMetalbox.

CarnaudMetalbox discloses the features discussed above, but does not disclose two lugs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include two lugs on the inner wall of the cap body of CarnaudMetalbox, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 (CA 7 1977).

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6. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over CarnaudMetalbox in view of Schneider.

CarnaudMetalbox discloses the features discussed above, but does not disclose a lug including a spine projecting from an inner wall. Schneider discloses a lug 25 that includes a spine 250 projecting from an inner wall 16. It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the lug of CarnaudMetalbox to include a spine projecting from an inner wall, as taught by Schneider, in order to the reinforce the lug's strength.

Allowable Subject Matter

7. Claims 14-20 are allowed.
8. Claims 5, 8, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 2, 6, 7, and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is 703-305-6316. The examiner can normally be reached Monday-Thursday (8:30-6:00) and every other Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.



slw
August 13, 2002

Henry C. Yuen
Supervisory Patent Examiner
Group 3700